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Attorneys for Plaintiff MICHAEL ROSSELL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MICHAEL ROSSELL,

Plaintiff,

v.

THE WEATHER CHANNEL, LLC,

Defendant.

Case No. 12-cv-04098-SBA

**STIPULATED REQUEST FOR AN ORDER
GRANTING A STAY AND ~~[PROPOSED]~~
ORDER (CIV. L.R. 6-2)**

Action Filed: August 2, 2012

1 Plaintiff Michael Rossell and defendant The Weather Channel, LLC (“TWC”)
 2 (collectively, the “Parties”) by and through their respective counsel, hereby make a stipulated
 3 request for an Order staying all proceedings and deadlines in this action until 60 days after the
 4 Federal Communications Commission (“FCC”) has issued its ruling on a currently pending
 5 petition seeking a declaratory ruling that sending a one-time text message confirming a
 6 consumer’s request that no further text messages be sent in the future is not a violation of the
 7 Telephone Consumer Protection Act (“TCPA”) (the “Petition”). This request is made pursuant to
 8 Federal Rule of Civil Procedure 6(b)(1) and Civil Local Rule 6-2 and is supported by the
 9 concurrently filed Declaration of Matthew D. Brown.

10 WHEREAS, the Complaint in this action was filed on August 2, 2012 and alleges, among
 11 other things, that TWC sent a text message to Mr. Rossell confirming that he no longer wished to
 12 receive text messages from TWC;

13 WHEREAS, the Complaint alleges a single cause of action for violation of the TCPA, 47
 14 U.S.C. § 227, for sending “unsolicited commercial text calls”;

15 WHEREAS, on February 16, 2012, SoundBite Communications, Inc. filed the Petition
 16 with the FCC seeking an expedited declaratory ruling that sending a one-time text message
 17 confirming a consumer’s request that no further text messages be sent in the future is not a
 18 violation of the TCPA or Section 64.1200 of the FCC’s rules;

19 WHEREAS, on March 30, 2012, the FCC announced that it would be taking comment on
 20 the Petition, with comments due on April 30, 2012, and reply comments due on May 15, 2012;

21 WHEREAS, the comment period on the Petition is over and the Petition is ripe for a
 22 ruling;

23 WHEREAS, an initial Case Management Conference has been scheduled for October 31,
 24 2012 in this action;

25 WHEREAS, the Parties have not previously requested any time modifications in this
 26 action; and

27

28

WHEREAS, the Parties believe that a brief stay of this action, pending the FCC's ruling on the Petition, would promote judicial and party efficiency and economy and the interests of justice;

IT IS HEREBY STIPULATED AND AGREED THAT:

1. Subject to and contingent upon the other terms of this Stipulation and [Proposed] Order, TWC agrees not to challenge the Northern District of California as a proper venue for this action;

2. All proceedings and deadlines in this action are stayed until 60 days after the FCC rules on the Petition or until further Order of the Court;

3. This stay shall include a continuance of TWC's deadline to answer, move to dismiss, or otherwise respond to Plaintiff's Complaint, to a date 60 days after the stay is lifted;

4. The Parties' obligations to meet and confer pursuant to Rule 26(f) and to file ADR certifications or a Notice of Need for ADR Phone Conference pursuant to ADR L.R. 3-5 and Civil L.R. 16-8 are stayed until further Order of the Court;

5. The Case Management Conference scheduled for October 31, 2012 is off calendar; and

6. Nothing in this Order shall prohibit any Party in this action from petitioning the Court to lift the stay as events warrant.

Dated: September 13, 2012

COOLEY LLP

/s/ Matthew D. Brown

MATTHEW D. BROWN

Attorneys for Defendant THE WEATHER
CHANNEL, LLC

Dated: September 13, 2012

PARISI & HAVENS LLP

/s/ David C. Parisi

DAVID C. PARISI

Attorneys for Plaintiff MICHAEL ROSSELL

[PROPOSED] ORDER

The above stipulation having been considered and good cause appearing therefore,
PURSUANT TO STIPULATION, IT IS SO ORDERED. For statistical purposes, the instant action is administratively closed pending further order of the Court. Within 90 days after the FCC rules on the Petition, the parties shall notify the Court as to the results of said ruling, and request either the reopening of the instant action or that the action be dismissed.

DATED: September 17, 2012


SAUNDRA BROWN ARMSTRONG
United States District Judge

ATTESTATION

In accordance with Northern District of California Civil Local Rule 5-1(i)(3), I hereby attest that I have obtained concurrence in the filing of this document from each of the other signatories.

/s/ Matthew D. Brown
MATTHEW D. BROWN

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